

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Joshua Robert Shumpert,)	Civil Action No.: 0:12-1746-MGL
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Benjerman Thomas,)	
)	
Defendant.)	
)	

Plaintiff Joshua Robert Shumpert (“Plaintiff”), proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 on June 26, 2012 against Defendant alleging violations of his constitutional rights. (ECF No. 1.) At the time of the underlying events, Plaintiff was incarcerated at Lexington County Detention Center in Lexington, South Carolina.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. On March 25, 2013, Magistrate Judge Gossett entered a Report and Recommendation (“Report”) recommending that this action be dismissed for failure to comply with this Court’s orders pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Report of Magistrate Judge Hendricks was mailed to Plaintiff advising him of his right to file objections to the Report and the time frame in which he must do so. (ECF No. 43.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The Court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that

there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

On March 25, 2013, Plaintiff's copy of the Report of Magistrate Judge Gossett was mailed to his last known address. On April 15, 2013, the envelope containing Plaintiff's copy of the March 25, 2013, report was returned to the Clerk of Court, marked "Return to Sender, Refused, Unable to Forward." (ECF No. 47.) Plaintiff was advised by order filed July 5, 2012 (ECF No. 8), of his responsibility to notify the Court in writing if his address changed. Plaintiff was also informed that his case could be dismissed for failing to comply with the Court's order. (ECF No. 8 at 2.)

Plaintiff failed to file objections and has also failed to comply with this Court's Order of July 5, 2012, by not keeping the Clerk advised of his current address. It appears that Plaintiff no longer wishes to pursue this action. Accordingly, the Court accepts the Report and Recommendation of Magistrate Judge Gossett.

After careful review of the record, the applicable law, and the Report and Recommendation, the within action is hereby DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

/s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
April 29, 2013